

**§ 48.505 Establishing eligibility of annuitants.**

(a) Eligibility for the annuity will be established by such evidence as may be required by the department concerned.

(b) If a child as defined in § 48.102(e)(4) is a designated annuitant, the department concerned shall require proof that the incapacity for self-support existed prior to the child's reaching age 18. Proof that continued incapacitation exists will be required every 2 years after the child passes the age of 18 years, except in a case where medical prognosis indicates recovery is impossible.

(c) If a child as defined in § 48.102(e)(5) is a designated annuitant, as specified in § 48.504(b), the department concerned shall require proof from the institution at least semiannually that the child is pursuing a full-time course of training as prescribed. For the purpose of proving eligibility, a child is considered to be pursuing a full-time course of study or training during an interval between school periods that does not exceed 150 days if he has demonstrated to the satisfaction of the department concerned that he has a bona fide intention of commencing, resuming, or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after that interval.

**§ 48.506 Recovery of erroneous annuity payments.**

(a) The Secretary of the Department concerned is empowered to use any means provided by law to recover amounts of annuities erroneously paid to any individual under the Plan. He may authorize such recovery by adjustment in subsequent payments to which the individual is entitled.

(b) There need be no recovery when in the judgment of the Secretary of the Department concerned and the Comptroller General of the United States, the individual to whom the erroneous payment was made is without fault and recovery would be contrary to the purpose of the Plan or would be against equity and good conscience.

**§ 48.507 Restriction on participation.**

(a) If a person who has made an election under the Plan retires with a

physical disability before the completion of 19 years of service and then dies in retirement, his widow and eligible children can receive monthly survivor annuities only if they are not eligible for Dependency and Indemnity Compensation payments from the Veterans Administration. If either the widow or children are eligible for dependency and indemnity compensation payments, then payment of annuities under the Plan may not be made to any member of the family. If the retired member's death was not service connected and his widow or children are not eligible for payments from the Veterans Administration, they may receive the provided annuity payments under the Plan.

(b) If the beneficiaries on whose behalf the election was made are restricted as in paragraph (a) of this section, from receiving annuities, the amounts withheld from the elector's retired pay as a result of the election will be refunded to the beneficiaries, less the amount of any annuity paid, and without interest.

(c) Upon notification of the death of the member in such a case, the department concerned will take the following actions:

(1) Notify the Central Office of the Veterans Administration of the death of the member and request that the department concerned be advised if an award is made under chapter 11 or 13, title 38 U.S. Code.

(2) Request the Central Office of the Veterans Administration to forward to the eligible widow and/or children an application form for survivor benefits under chapter 11 or 13, title 38 U.S. Code, with instructions for completion and submission.

**§ 48.508 Certain 100 percent disability retirement.**

An election filed on or after August 13, 1968 is not effective if the member dies within 30 days following retirement from a disability of 100 per centum (under the standard schedule of rating disabilities in use by the Veterans Administration) for which he was retired under chapter 61, title 10 U.S. Code, unless—

(a) Such disability was the result of injury or disease received in line of